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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,	)	No.
)	
Plaintiff,	)	<u>COUNTS 1 - 3:</u>
	)	THEFT, FRAUD AND
v.	)	MISAPPLICATION FROM
	)	ORGANIZATION RECEIVING
STEVEN D. OSBORNE and	)	FEDERAL FUNDS
THOMAS R. PURCELL,	)	Vio. of 18 U.S.C. § 666(a)(1)
)	
Defendants.	)	<u>CRIMINAL FORFEITURE</u>
	)	<u>ALLEGATION 1:</u>
	)	18 U.S.C. §§ 981(a)(1)(C), 1956(c)(7)
	)	and 28 U.S.C. § 2461(c)
)	
	)	<u>CRIMINAL FORFEITURE</u>
	)	<u>ALLEGATION 2:</u>
	)	18 U.S.C. §§ 981(a)(1)(C), 1956(c)(7)
	)	and 28 U.S.C. § 2461(c)

INDICTMENT

The Grand Jury charges that:

General Allegations

At all times relevant to this indictment:

The Alaska Inter-Tribal Council

1. The Alaska Inter-Tribal Council (“AITC”) was a statewide, inter-tribal consortium, non-profit organization which advocated in support of tribal governments throughout the state of Alaska. AITC was considered a tribal organization eligible to receive federal grant funds.

2. AITC had an unpaid Executive Council made up of a Chairperson, Vice-Chairperson, Secretary, and Treasurer. AITC also had a paid staff consisting of an Executive Director, Finance Director, Office Manager, and grant managers. The Executive Director was the chief administrative officer for AITC and was hired by and reported to the AITC Executive Council. The Finance Director was hired by and reported to the Executive Director.

3. The day-to-day operation of AITC was governed by a Policies, Procedures and Employee Manual which was approved and adopted by the AITC Executive Council on January 1, 2008. Among other things, this manual set out AITC’s Fiscal Management Policy, Record Management Policy, Procurement Policy, Conflict of Interest Policy, Travel Policy, Finance Policies, and Personnel Policies and Procedures.

4. AITC received funding from multiple sources, including from federal grants issued by the United States Environmental Protection Agency (“EPA”). In 2008

and 2009, AITC received federal assistance in excess of \$10,000 for each calendar year. Between January 2008, and December 2010, AITC received approximately \$1,083,000.00 in EPA federal grant funding to promote its purposes. For example, the Executive Director position at AITC was funded by an EPA federal grant.

5. In addition to EPA grant funds, AITC received non-federal funding, including funds from the Venezuelan government for managing a CITGO Petroleum Corporation (“CITGO”) Home Heating Program. AITC maintained separate bank accounts for money received from different sources, but the funds were often moved and co-mingled with federal funding between bank accounts.

Executive Director Steven Osborne

6. From December 2007, until February 2009, STEVEN D. OSBORNE was employed as the Executive Director of AITC. As Executive Director, OSBORNE was responsible for managing federal grants received by AITC. OSBORNE was also responsible for ensuring the proper accounting of all AITC funds, providing for the appropriate separation of funds, accounts, and special monies, certifying and providing financial reports monthly to the AITC Treasurer and quarterly to the AITC Executive Council, and implementing comprehensive fiscal procedures to ensure the proper accounting of all AITC funds. OSBORNE held the position of Executive Director until February 2009, when he resigned. Following his resignation, OSBORNE was replaced

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by THOMAS R. PURCELL as the Acting Executive Director. As an employee, during the time frame enumerated above, OSBORNE was an agent of AITC as that term is defined in 18 U.S.C. § 666(d)(1).

7. As the Executive Director, OSBORNE was an authorized signer for AITC bank accounts and therefore had access to such accounts to endorse checks and orders for the payment of money, or to otherwise withdraw or transfer funds. These included the following accounts:

<u>Financial Institution</u>	<u>Account / No.</u>
First National Bank Alaska	AITC General Operating Account / XXX226
First National Bank Alaska	AITC CITGO Operating Account / XXXXX664
First National Bank Alaska	AITC Repurchase Account / XXXXX832
Alaska USA Federal Credit Union	AITC Account / XXXX909

8. In addition, as the Executive Director, OSBORNE received access devices from First National Bank of Alaska, specifically, a MasterCard credit card (card number ending in “6086”), and a debit card (card number ending in “0643”) on AITC’s bank account ending in XXXXX664.

9. During his time as Executive Director, specifically, from on or about January 2008, and continuing thereafter until on or about February 2009, OSBORNE obtained by theft, fraud and misapplication, approximately \$213,380.55 in funds belonging to AITC. Specifically, OSBORNE stole, obtained by fraud, and misapplied AITC funds, including but not limited to, the following:

- (a) Between January 2008 and February 2009, in addition to his normal AITC salary, OSBORNE issued himself approximately \$99,221.07 in checks without the AITC Executive Council's knowledge or approval;
- (b) OSBORNE "double billed" AITC for Web/database development, hardware and software installation, and set-up in the approximate amount of \$5,843.00;
- (c) OSBORNE made "in-bank" cash withdrawals in the approximate amount of \$31,500.00 for his personal use, with some of those funds used towards the purchase of a motorcycle and two sailboats for OSBORNE;
- (d) OSBORNE issued and cashed additional AITC checks to himself in the approximate amount of \$24,595.90, which included funds used towards the purchase of an inflatable boat for OSBORNE; and
- (e) OSBORNE misused an AITC credit card and an AITC debit card to purchase items for his personal benefit in the approximate amount of \$52,703.58.

Finance Director / Acting Executive Director Thomas R. Purcell

10. From January 2008 until February 2009, THOMAS R. PURCELL was employed as the Finance Director of AITC. As the Finance Director, PURCELL was responsible for managing all of AITC's financial accounts, general ledger entries, payroll, and processing of accounts payable/receivable, maintaining compliance documents, processing financial reports, and ensuring that program expenditures were compliant with grant and/or contract agreements. PURCELL held the position of Finance Director until

February 2009, when he was appointed Acting Executive Director upon the resignation of STEVEN D. OSBORNE. PURCELL served as the Acting Executive Director until March 2009, when he was terminated by the Executive Council. As an employee, during the time frame enumerated above, PURCELL was an agent of AITC as that term is defined in 18 U.S.C. § 666(d)(1).

11. While serving as the Finance Director, PURCELL made 16 separate payment transactions in the approximate amount of \$69,475.89 from AITC accounts to pay off balances for an AITC credit card (card number ending in “6086”) issued to Executive Director STEVEN D. OSBORNE. PURCELL did not reconcile, question, report or document expenses to ensure that AITC funds were spent in accordance with AITC policy and procedures, including EPA grant agreements.

12. During his time as Finance Director and Acting Executive Director, specifically, from on or about January 2008, and continuing thereafter until on or about March 2009, PURCELL himself obtained by theft, fraud and misapplication, approximately \$22,720.00 in funds belonging to AITC. Specifically, PURCELL stole, obtained by fraud, and misapplied AITC funds, including but not limited to, the following:

(a) Between January 2008 and March 2009, in addition to his normal AITC salary, PURCELL submitted false time-sheets charged to the AITC CITGO account in the approximate amount of \$19,200.00, thereby fraudulently causing payment of these funds to himself; and

(b) PURCELL, without authorization from the AITC Executive Council, increased his bi-weekly total compensation in the approximate amount of \$3,520.00.

COUNTS 1 - 2:

13. Paragraphs 1–9 are realleged herein.

14. STEVEN D. OSBORNE, being an agent of AITC, an organization that received federal program benefits in excess of \$10,000 in each of the one year periods beginning January 1, 2008, and ending December 31, 2009, did steal, obtain by fraud, and intentionally misapply funds under the care, custody and control of AITC. The funds that OSBORNE stole, obtained by fraud and intentionally misapplied exceeded \$5,000 in each calendar year listed as separate and distinct counts as described below.

Count	Year	Approximate Amount of AITC Funds Obtained Unlawfully by OSBORNE
1	2008	\$185,761.91
2	2009	\$27,618.64

All of which is in violation of Title 18, United States Code, Section 666(a)(1).

COUNT 3:

15. Paragraphs 1–5 and 10-12 are realleged herein.

16. THOMAS R. PURCELL, being an agent of AITC, an organization that received federal program benefits in excess of \$10,000 in each of the one year periods beginning January 1, 2008, and ending December 31, 2009, did steal, obtain by fraud, and

intentionally misapply funds under the care, custody and control of AITC. The funds that PURCELL stole, obtained by fraud and intentionally misapplied exceeded \$5,000 in each calendar year listed as separate and distinct count as described below.

Count	Year	Approximate Amount of AITC Funds Obtained Unlawfully by PURCELL
3	2008	\$18,480.00

All of which is in violation of Title 18, United States Code, Section 666(a)(1).

CRIMINAL FORFEITURE ALLEGATION 1:

Upon conviction of one or more of the offenses alleged in Count 1 and 2 of this Indictment, defendant STEVEN D. OSBORNE shall forfeit to the United States pursuant to 18 U.S.C. §§ 981(a)(1)(C), 1956(c)(7) and 28 U.S.C. § 2461(c), any property, real or personal, which constitutes, or is derived from proceeds traceable to such offense, including without limitation:

1. Any property, real or personal, which constitutes, or is derived from proceeds traceable to Count 1, including without limitation \$185,761.91 which is the approximate amount of AITC funds obtained unlawfully by OSBORNE in 2009;

2. Any property, real or personal, which constitutes, or is derived from proceeds traceable to Count 1, including without limitation \$27,618.64 which is the approximate amount of AITC funds obtained unlawfully by OSBORNE in 2009; and

3. A money judgment equal to the total amount of money involved in the offense(s) alleged in Count 1 and 2 of this Indictment, not to exceed \$213,380.55.

CRIMINAL FORFEITURE ALLEGATION 2:

Upon conviction of one or more of the offenses alleged in Count 3 of this Indictment, defendant THOMAS R. PURCELL shall forfeit to the United States pursuant to 18 U.S.C. §§ 981(a)(1)(C), 1956(c)(7) and 28 U.S.C. § 2461(c), any property, real or personal, which constitutes, or is derived from proceeds traceable to such offense, including without limitation:

1. Any property, real or personal, which constitutes, or is derived from proceeds traceable to Count 1, including without limitation \$18,480.00 which is the approximate amount of AITC funds obtained unlawfully by PURCELL in 2008;

2. Any property, real or personal, which constitutes, or is derived from proceeds traceable to Count 3, including without limitation \$5,000.00 which is the approximate amount of AITC funds obtained unlawfully by PURCELL in 2009; and

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3. A money judgment equal to the total amount of money involved in the offense(s) alleged in Count 3 of this Indictment, not to exceed \$23,480.00.

A TRUE BILL.

s/Grand Jury Foreperson
GRAND JURY FOREPERSON

s/Joseph W. Bottini
JOSEPH W. BOTTINI
Assistant U.S. Attorney
United States of America

s/Karen L. Loeffler
KAREN L. LOEFFLER
United States Attorney
United States of America

DATE: 8/21/2013